

Remarks

Claims 13 to 16 are cancelled without prejudice to filing a divisional application thereon. Claims 17 to 21 are added and claims 1, 3, 7 and 11 are amended. Claims 1 to 12 and 17 to 21 are pending in this application of which claims 1, 7 and 21 are in independent form.

The disclosure is amended herein to add the cross reference paragraph noted on page 2, paragraph 3, of the action, so that the disclosure should now be acceptable.

Claims 1 to 12 were rejected under 35 USC 112, second paragraph, as being indefinite because claim 1 included the phrase "and/or" which rendered the intended scope of the claim unclear. Claim 1 is amended to delete "and/or" and to substitute appropriate language therefor.

Claim 11 was objected to because the term "type" or "types" rendered the scope of that claim indefinite. Claim 11 is amended to delete these terms and should now be definite as required by the statute. Claims 17 to 20 are added to provide the types of rubber set forth on page 9, lines 20 to 27, of the disclosure.

Claim 7 contains allowable subject matter so that this claim is amended to incorporate therein all the features and limitations of claim 1 from which it had depended. Claim 7 also incorporates the amendments made to claim 1 to correct for indefiniteness. Claim 7 should now be in condition for allowance.

Claims 1, 2 and 11 were rejected under 35 USC 103(a) as being unpatentable over Herrmann et al in view of Berger et al. The following will show that claim 1 patentably distinguishes the

applicants' invention over this combination of references.

Herrmann et al discloses neither the thickness of the outer coating nor that the outer coating contains fibers in combination with a fluoropolymer powder or a powder of a non-ferrous metal. Thus, nowhere in Herrmann et al is there any suggestion which would enable our person of ordinary skill to arrive at the following two features of applicants' claim 1:

"said outer coating being an elastomeric layer having a layer thickness of 0.15 to 0.25 mm; and,

said elastomeric layer being based on an interlaced rubber and containing at least fibers in combination with one of the following: a fluoropolymer powder, a powder of a non-ferrous metal and both of said fluoropolymer powder and said non-ferrous metal." (emphasis added)

There is no way in which our person of ordinary skill would be motivated to seek out a secondary reference to fill this void because there is no suggestion in Herrmann et al which could even alert our artisan to these features.

The foregoing notwithstanding, even if our artisan were given a copy of Berger et al, our artisan would find no suggestion therein as to the thickness of the outer coating as specifically set forth in applicants' claim 1. Also, our artisan would find no explicit teaching that the outer coating can be formed of an elastomer layer based on interlaced rubber. As an example, on page 6, the paragraph before the claims, Berger et al suggests that the coating can be a liquid polymer matrix which contains monomeric or oligomeric polymer components. However, this does not suggest that the coating already contains a rubber

polymer.

Also, Berger et al does not suggest that the outer coating contain a powder of a non-ferrous metal.

Applicants respectfully disagree with the view expressed in the action that carbon black is a powder of a non-ferrous metal and submit that this is an unacceptable stretching of the meaning of the term "non-ferrous metal". As noted in the applicants' disclosure on page 9, starting at line 12:

"Non-ferrous metal is a generic characterization for non-alloyed metals with the exception of iron and for alloys in which a metal except iron has the greatest component with respect to mass."

Accordingly, the powder must be a powder of a metal which is other than iron and carbon black is a hydrocarbon and is therefore not a non-ferrous metal.

Claims 1 and 2 were rejected under 35 USC 103(a) as being unpatentable over Berger et al taken alone. In the above, applicants have shown that it is not possible for our person of ordinary skill to arrive at the applicants' invention by combining Berger et al with Herrmann et al so that it is not seen how Berger et al by itself can lead our person of ordinary skill to the applicants' invention as it is set forth in claim 1 of their application.

Applicants note that the thickness range in the applicants' invention for the outer coating of 0.15 to 0.25 mm is deemed in the action to be a mere change in size of the coating. Accordingly, no documentary evidence was provided to support the view that this feature is obvious to a person of ordinary skill. Applicants submit that facts should be only asserted to be well

known or to be common knowledge in the art if they are capable of instant and unquestionable demonstration as being well known.

Applicants submit that the feature of claim 1 that:

"said outer coating being an elastomeric layer having a layer thickness of 0.15 to 0.25 mm;"

does not fall into this category. The outer coating is limited to a relatively narrow range and is limited from above as well as from below.

There is no suggestion in Berger et al or in any of the references which would enable our person of ordinary skill to select this very specific range of thickness. The applicants have demonstrated the criticality of this specific limitation so that it would not be appropriate to rely solely on case law as the rationale to support an obviousness rejection. Please see MPEP §2144.03.

This layer thickness ensures that the belt has a high flexibility during operation and a high service life. For layer thicknesses greater than 0.25 mm, problems occur during manufacturing especially in forming. For thicknesses less than 0.15 mm, the capability of processing the belts is affected because such thin layers are easily damaged. Please see the applicants' disclosure starting on page 5, line 28, and continuing to page 6, line 15. In none of the references cited in the action is there any mention of the problems associated with coating thicknesses and the difficulties with respect to the manufacture thereof.

Claim 10 was rejected under 35 USC 103(a) as being unpatentable over Berger et al in view of Takeuchi et al. The

following will show that claim 10 also patentably distinguishes the applicants' invention over this combination of references.

Takeuchi et al does not disclose a belt having an outer coating in the form of an elastomeric layer based on interlaced rubber and having a thickness of 0.15 to 0.25 mm. Also, the fluoropolymer powder is not mentioned in this reference. In Takeuchi et al, the copper powder is used to prevent the electrical charging of the belt. Noise and wear are nowhere mentioned in this reference so that our person of ordinary skill would really have no reason to consult this reference in order to reach the goal of providing the ribbed V-belt defined in applicants' claim 1. Also, a person of ordinary skill would still be without the feature of a fluoropolymer powder.

For the reasons advanced above, applicants submit that claims 1 to 6, 8 to 12 and 17 to 20 patentably distinguish their invention over the applied references and should now all be allowable. Added claim 21 parallels claim 1 except that the last clause thereof is in a Markush format so that this claim too should be allowable.

Reconsideration of the application is earnestly solicited.

Respectfully submitted,



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